REMARKS

The Final Office Action of December 1, 2004, has been received and reviewed.

Claims 1-22 are currently pending and under consideration in the above-referenced application, each standing rejected.

Reconsideration of the above-referenced application is respectfully requested.

Claim Objections

Claims 1-19 and 22 have been objected to because independent claim 1, from which claims 2-19 and 22 depend, recites "in a concentration greater than the present in the egg," a phrase which does not make a lot of sense.

It is proposed that independent claim 1 be revised in accordance with the Office's recommendation to recite, "in a concentration greater than that present in the egg." It is respectfully submitted that the proposed revision of independent claim 1 does not narrow the scope of independent claim 1, as it merely corrects a typographical error.

Withdrawal of the objections to claims 1-19 and 22 is respectfully solicited.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 1-19 and 22 have been rejected for purportedly failing to comply with the written description requirement of the first paragraph of 35 U.S.C. § 112. Specifically, it has been asserted that the recitation, "in a concentration greater than [that] present in the egg" is not supported by the specification of the above-referenced application and, thus, introduces new matter into the above-referenced application.

It is respectfully submitted that the specification provides an adequate written description of an extract that comprises transfer factor "in a concentration greater than [that] present in the egg." For example, paragraph **[0030]** discloses that transfer factor may be "separated from other constituents of the egg," indicating that the resulting composition would have a concentration of transfer factor which is greater than the concentration of transfer factor present in the egg. In addition, paragraph **[0043]** of the specification discloses a variety of other processes that result in compositions that include transfer factor in greater concentrations that those present in eggs. For

example, the yolks of eggs may be separated from the egg whites. As another example, various filtration processes may be conducted. Purification processes may also be conducted. Paragraphs **[0044]** and **[0055]** through **[0059]**. The egg product may also be powdered or dried. *Id.* As all of the processes include the removal of something other than transfer factor from an egg, the results of all of these processes are compositions that include transfer factor "in a concentration greater than [that] present in the egg," as required by independent claim 1.

Therefore, the specification of the above-referenced application provides an adequate written description of the subject matter recited in independent claim 1. In view of the adequate written description provided by the specification of the above-referenced application, it is respectfully submitted that independent claim 1 and claims 2-19 and 22 depending directly or indirectly therefrom are allowable under the first paragraph of 35 U.S.C. § 112, and requested that the 35 U.S.C. § 112, first paragraph, rejections of independent claim 1 and claims 2-19 and 22 depending directly or indirectly therefrom be withdrawn.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 11 and 12 stand rejected under the second paragraph of 35 U.S.C. § 112 for purportedly being indefinite. In particular, it has been asserted that one of ordinary skill in the art would not readily understand the meaning of "treat a disease state" in claim 11, from which claim 12 depends.

It is proposed that claim 11 be revised to replace the phrase "disease state" with the readily understandable term "symptom." It is respectfully submitted that paragraphs **[0031]**, **[0117]**, and **[0118]** of the specification of the above-referenced application provide support for this revision, as these paragraphs describe treatment of a pathogenic infection and, thus, of symptoms associated with such infections.

Accordingly, it is respectfully submitted that amended claim 11 complies with the definiteness requirement of 35 U.S.C. § 112, second paragraph, and requested that the 35 U.S.C. § 112, second paragraph rejection of that claim, as well as of claim 12 depending therefrom, be withdrawn.

Rejections Under 35 U.S.C. § 102

Claims 20 and 21 stand rejected under 35 U.S.C. § 102(b) for reciting subject matter which is purportedly unpatentable over the subject matter described in U.S. Patent 5,367,054 to Lee (hereinafter "Lee").

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference which qualifies as prior art under 35 U.S.C. § 102. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 20 is directed to a method for causing an animal to elicit a T-cell mediated immune response. The method of independent claim 20 includes administering to a treated animal a quantity of a composition including an extract of an egg obtained from a nonmammalian source animal. The extract comprises a sufficient quantity of transfer factor to initiate the T-cell mediated immune response.

Lee does not expressly or inherently describe administering any of the compositions thereof that would include enough transfer factor to initial a T-cell mediated immune response to an animal. Rather, the disclosure of Lee is limited to administering compositions that include *purified* egg yolk immunoglobulins to animals. Col. 3, lines 35-40, 52-57; col. 5, lines 19-25. The only compositions of Lee that would include enough transfer to initiate a T-cell mediated immune response are intermediate compositions in which the egg yolk immunoglobulins are still very dilute and have not yet been purified to "acceptable" limits. Col. 5, lines 38-34; *see also* col. 5, lines 19-25. Thus, according to Lee, these intermediate compositions are not to be administered to an animal. *See* col. 5, lines 19-25 (90% purity), 61-64 (further purification is required). As Lee does not expressly or inherently describe, or anticipate, administering to an animal a composition that includes an extract with a sufficient quantity of transfer factor to initiate a T-cell mediated immune response, the subject matter to which independent claim 20 is directed is allowable under 35 U.S.C. § 102(b).

Claim 21 is allowable, among other reasons, for depending directly from claim 20, which is allowable.

For these reasons, withdrawal of the 35 U.S.C. § 102(b) rejections of claims 20 and 21 is respectfully requested.

Entry of Amendments

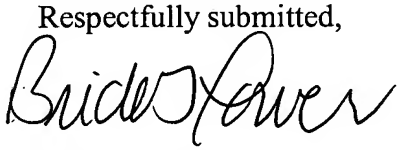
It is respectfully requested that the proposed claim amendments be entered. They do not introduce new matter into the application, nor would they require an additional search. Moreover, by addressing issues that have been raised by the Office, the proposed amendments reduce the number of issues that remain for purposes of appeal.

In the event that a decision is made not to enter the proposed claim amendments, entry thereof upon the filing of a Notice of Appeal in the above-referenced application is respectfully requested.

CONCLUSION

It is respectfully submitted that each of claims 1-22 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,



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